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Impeachment Leadership

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As the Congress advances gingerly toward an impeachment proceeding, it is increasingly apparent that a role is going searching for a man. It is the role played by Edmund Burke in the impeachment of Warren Hastings—the role of laying out the broad outlines of the case.

That job is going begging because the men managing the impeachment proceedings have deliberately avoided any suggestion of acting as prosecutors. But it is particularly important that somebody undertake that job because of the way President Nixon has handled his office in the past and his case now.

The managers of the impeachment are Peter Rodino, Chairman of the House Judiciary Committee, and John Doar, his chief counsel for Watergate affairs. Mr. Rodino is having his brush with history. He is determined to do everything right. He wants to avoid the slightest hint of partisanship and to be fairness itself.

Mr. Doar reinforces the chairman's personal bent. He is what some people call a man of the highest rectitude and what others call a bit of a Christer. He was a successful civil rights lawyer 15 years ago because he followed the rules of the game so closely that nobody could ever complain. His idea of the inquiry is that the facts should speak for themselves.

Maybe the facts will speak for themselves. After hearing the White House tapes, the Watergate special prosecutor, Leon Jaworski, has repeatedly expressed the view that he has found nothing which suggests that former White House aide John Dean was lying when he testified that the President participated in the Watergate cover-up. That suggests there is cold fingerprint-type evidence in the tapes. Mr. Doar ought to get those tapes in a hurry.

But there is reason to doubt that even the tapes will yield the facts after the fashion of a Perry Mason drama. Mr. Nixon's style has always been to let others do his dirty work.

A particularly nice example of that style emerges in a recent book by Arnold Weber, a former high official who managed the first stage of the wage-and-price freeze for Mr. Nixon. Mr. Weber says that one point the President expressed doubt as to whether the freeze should apply to football players. When Mr. Weber said that it had to as a matter of equity, the President commented: "'I guess you're right. But whatever you decided, leave me out of it."

The "leave me out of it" approach explains what H. R. Haldeman and John Ehrlichman and John Mitchell were doing for Mr. Nixon in his first administration. It explains the present role of Ronald Ziegler and Gen. Alexander Haig on the White House staff.

Most of all it explains why in case after case—in the case of the 18½ minutes missing from one tape, in the case of the Watergate break-in, in the case of the hush money paid for the Watergate cover-up, in the case of the burglary of Daniel Ellsberg's psychiatrist, in the case of the falsely dated deed conveying Mr. Nixon's papers to the U.S. Archives—the trail of evidence leads to the immediate circle of the President and then goes dead.

Given this pattern, the probability is that the facts won't speak for themselves. In these circumstances it seems clear that there ought to be another figure in the management of the impeachment. There ought to be a prosecutor—somebody who is constantly laying out the big picture, drawing the inferences, summing up the circumstantial evidence, and asserting against the logic of mere procedural virtuousness the larger case for finding out what, in substance, actually happened.

Traditionally, it so happens, impeachment proceedings have usually included such a figure. About half the American impeachments in this century featured a prosecutor who was known as "the proponent." In the impeachment of Warren Hastings, in 18th century Britain, Burke joined the playwright Richard Sheridan in the prosecution. It was in that role, indeed, that he struck off a famous phrase highly relevant to our present circumstance: "There never was a bad man that had ability for good service."

The true question is not whether there is a formal prosecutor, but who in practice can play the role. The list of the Judiciary Committee offers several possibilities—Jack Brooks of Texas, Don Edwards of California, John Seiberling of Ohio, Robert Kastenmeier of Wisconsin. It remains for one to step forward.

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